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October 5, 2011

Karl Morell
Of Counsel
kmorell@balljanik.com

E-FILED

Ms. Victoria Rutson
Chief, Office of Environmental Analysis
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

Re: STB Docket No. AB-6 (Sub-No. 477X), BNSF Railway Company --
Abandonment of Rail Service Easement Exemption -- In Los Angeles
County, California

Dear Ms. Rutson:

Attached for filing is the letter from the U.S. Army Corps of Engineers in the
above-referenced matter.

If you have any questions, please call me.

Sincerely,

Karl Morell
Of Counsel

Enclosure



DEPARTMENT OF THE ARMY

P.O. Box 532711
Los Angeles, CA 90017-3401

October 5, 2011

REFRY TO
ATTENTION OF
Regulatory Division

Karl Morell
Ball Janik LLP
655 Fifteenth Street, NW
Suite 255
Washington, District of Columbia 20005

SUBJECT: Determination regarding requirement for Department of the Army Permit

Dear Mr. Morell:

I am responding to your request (File No. SPL-2011-00951-VCC) dated September 8, 2011, for clarification on whether a Department of the Army Permit is required for the BNSF Railway Company (BNSF) Abandonment STB Docket AB 6 project (-117.949718, 34.131592) located within the City of Azusa, Los Angeles County, California. BNSF will not be salvaging the line and will leave the track and bridge in place.

A Corps of Engineers permit is required for the discharge of dredged or fill material into, including any redeposit of dredged material other than incidental fallback within, "waters of the United States" and adjacent wetlands pursuant to Section 404 of the Clean Water Act of 1972. Examples include, but are not limited to,

1. creating fills for residential or commercial development, placing bank protection, temporary or permanent stockpiling of excavated material, building road crossings, backfilling for utility line crossings and constructing outfall structures, dams, levees, groins, weirs, or other structures;
2. mechanized land clearing, grading which involves filling low areas or land leveling, ditching, channelizing and other excavation activities that would have the effect of destroying or degrading waters of the United States;
3. allowing runoff or overflow from a contained land or water disposal area to re-enter a water of the United States;
4. placing pilings when such placement has or would have the effect of a discharge of fill material;

An application for a Department of the Army permit is available on our website:
<http://www.spl.usace.army.mil/regulatory/eng4345a.pdf>.

Based on the discussion above, we have determined your proposed activity is an administrative action that would not require the discharge of dredged or fill material and a

Section 404 permit would not be required from our office if the activity is performed in the manner described. Please note, until a jurisdictional determination is approved by the Corps for the project area, we cannot rule out that waters of the U.S. occur on-site. Notwithstanding our determination above, your proposed project may be regulated under other Federal, State, and local laws.

If you have any questions, please contact Veronica Chan of my staff at 213-452-3292 or via e-mail at Veronica.C.Chan@usace.army.mil. Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at: <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,

A handwritten signature in black ink, appearing to read 'Veronica Chan', followed by a horizontal flourish.

Veronica Chan
Project Manager
Transportation & Special Projects Branch
Regulatory Division

Enclosures